

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CADEN M. RUSSELL, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

HECTOR M. SALDANA, JR.,

Respondent-Appellant.

UNPUBLISHED

August 7, 2007

No. 275723

Muskegon Circuit Court

Family Division

LC No. 05-034475-NA

Before: Smolenski, P.J., and Fitzgerald and Kelly, JJ.

MEMORANDUM.

Respondent appeals as of right from a circuit court order terminating his parental rights to his minor child pursuant to MCL 712A.19b(3)(g). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

To terminate parental rights, the trial court must find that at least one statutory ground for termination in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If the court determines that a statutory ground for termination has been established, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). We review the trial court's decision for clear error. *Id.* at 356-357; *Sours*, *supra* at 633.

The trial court did not clearly err in finding that the statutory ground for termination under MCL 712A.19b(3)(g) was proven by clear and convincing evidence. *In re IEM*, 233 Mich App 438, 450; 592 NW2d 751 (1999). Respondent argues that his criminal record and incarceration did not mean that he would be unable to care for the child within a reasonable time upon his release. However, respondent's lengthy criminal history and inability to control his behavior while incarcerated reflected very poorly on his overall temperament, maturity, and parental fitness. In addition, respondent essentially ignores the fact that he will be hard pressed to take care of himself, let alone a small child, upon his release from prison. At the time of the hearing, respondent was likely to remain incarcerated for at least another three to four months. His employment prospects were slim, and he could not demonstrate that he would have suitable housing that was not subject to the whim of his father. He had had no physical contact with the child since his birth, and had done very little to arrange for his care and custody in the past. Nor

had respondent taken any steps to arrange for any future care for the child in the event, as respondent expected, he would be working full-time after his release. Apart from his participation in parenting classes while incarcerated, there was no indication that respondent could provide even a basic level of care for an infant or toddler. Under the circumstances, given the child's age, we find that the trial court did not clearly err in finding that respondent would be unable to provide proper care and custody within a reasonable time.

Further, in light of respondent's criminal history and ongoing inability to conform his behavior to the requirements of society, the fact that no parental bond existed between respondent and the child, and the child's need for stability and security, the trial court did not clearly err in determining that termination of respondent's parental rights was not clearly contrary to the child's best interests.

Affirmed.

/s/ Michael R. Smolenski

/s/ E. Thomas Fitzgerald

/s/ Kirsten Frank Kelly